

**REMARKS**

Claims 1-7 are all the claims pending in the present application. Claims 1-5 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Fuyama (U.S. Patent No. 6,259,376). Claims 6 and 7 remain rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Fuyama '267 (U.S. Patent No. 6,834,267).

**§ 103(a) Rejections (Fuyama '376) – Claims 1-5**

Claims 1-5 are rejected for substantially the same reasons set forth in the previous Office Action, and the Examiner adds a few new arguments in the *Response to Arguments* section of the present Office Action. Applicant to traverses these rejections at least based on the following reasons.

With respect to independent claim 1, Applicant previously argued, in part, that Fuyama '376 does not disclose or suggest at least:

- A. "vehicle speed detecting means for detecting a speed of a motor vehicle which passes through a toll gate station equipped with an electronic toll collection system,"
- B. "measuring means for measuring reception field intensity of the received electronic toll collection information within a communication coverage area," and
- C. "decision means for making decision on the basis of said detected vehicle speed and said measured reception field intensity as to a location within said communication coverage area where electronic toll collection information communication can be started while sustaining favorable reception field intensity at said detected vehicle speed, to thereby allow said

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communication means to perform communication processing on the basis of result of said decision."

Also, Applicant previously argued that Fuyama '376 does not disclose or suggest at least, "wherein said elements (a)-(d) are provided on a vehicle," as recited in claim 1. In response, the Examiner alleges:

The Examiner has explained in the art rejection where a structure in claim 1 is disclosed in Fuyama '376. Applicant has not provided support for the assertion that Fuyama does not disclose said specific structure; therefore, Applicant's arguments are non-persuasive.

In response, Applicant maintains the previous arguments, wherein Applicant specifically identified the claimed elements that are not disclosed or suggested by Fuyama. For example, Applicant previously argued that there is no particular component of Fuyama '376 that corresponds to the claimed measuring means for measuring reception field intensity of the received electronic toll collection information within a communication coverage area. Further, there is no teaching or suggestion that any such component constitutes a vehicle-onboard electronic toll collection apparatus, as described in claim 1.

The Examiner further alleges:

Again, Applicant is reminded that the location of these means does not affect the recited structure or functionality. Additionally, a shift in the location of recited parts is deemed to be obvious in light of prior art teachings addressing the structure and the functionality of the recited parts, as supported *In re Japikse*, 86 USPQ 70, 73.

In response, Applicant submits that the facts of *In re Japikse* are distinguishable from those in the present case because *In re Japikse* involved claims to a hydraulic power press which

read on the prior art except with regard to the position of the starting switch. The claims were held unpatentable because shifting the position of the starting switch would not have modified the operation of the device. Here, this case involves the constitution of several different elements of a vehicle-onboard electronic toll collection apparatus. The components in Fuyama '376 that allegedly correspond to the claimed elements, as set forth in claim 1, do not constitute a simple rearrangement of parts on a vehicle-onboard electronic toll collection apparatus, and the alleged parts of Fuyama '376 are NOT provided on a vehicle. The alleged corresponding elements in Fuyama '376 appear to be components taken from a highway, street, or various other areas besides a vehicle-onboard electronic toll collection apparatus. Therefore, the result of *In re Japikse* is not applicable here as this case does not involve a simple arrangement of parts on a single apparatus in Fuyama '376.

Therefore, at least based on the foregoing, as well as the previously submitted arguments, and at least because the applied reference does not disclose or suggest each and every limitation set forth in claim 1, Applicant submits that claim 1 is patentably distinguishable over Fuyama '376.

Applicant submits that dependent claims 2-5 are patentable at least by virtue of their dependencies from independent claim 1.

Further, with respect to claims 4 and 5, Applicant previously argued that Fuyama does not disclose or suggest converting the distance data to time data based on an area entering speed, as recited in claims 4 and 5. Further, Applicant argued that even if, *arguendo*, a time interval is ultimately derived from a distance measurement, Fuyama only discusses a predetermined

interval, therefore Fuyama could not possibly disclose or suggest converting distance data to time data based on an area entering speed. That is, the conversion of the distance data to time data is dynamically based on an area entering speed, whereas the time interval discussed in Fuyama is a predetermined interval.

In response, the Examiner alleges:

First, the claimed invention does not specify when the distance data is converted to time data. Second, Fuyama uses the distance data to derive a measurement of a sufficient time interval for establishing a communication link. This determination must be made as a car is approaching the toll area, i.e., such a determination must be made as a car is entering the toll area in order to effect the intensity of the communication signal in time for the car to pay a toll.

In response, Applicant submits that there is no support for the Examiner's conclusion that the determination must be made as a car is approaching a toll area, and that the determination must be made as a car is entering the toll area in order to effect the intensity of the communication signal in time for the car to pay a toll. There is no teaching or suggestion of this assertion in Fuyama '376, and this conclusion simply appears to be conjecture by the Examiner.

§ 103(a) Rejections (Fuyama '376 / Fuyama '267) – Claims 6 and 7

First, Applicant maintains that claims 6 and 7 are patentable at least by virtue of their respect dependencies from independent claim 1. Fuyama '267 does not make up for the deficiencies of Fuyama '376.

Further, with respect to claim 7, to support the Examiner's rejection, the Examiner simply states "Additionally, speed warnings may be provided using a voice message." The Examiner, without further support, just summarily states that the references may provide speed warnings via

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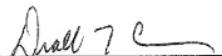
a voice message. The Examiner has not established a *prima facie* case of obviousness with respect to claim 7.

At least based on the foregoing, Applicant submits that the present invention, as recited in claims 6 and 7, is patentably distinguishable over the applied references, either alone or in combination.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

  
Diallo T. Crenshaw  
Registration No. 52,778

SUGHRIE MION, PLLC  
Telephone: (202) 293-7060  
Facsimile: (202) 293-7860

WASHINGTON OFFICE  
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CUSTOMER NUMBER

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